



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. 07CR1093 JM
)	07MJ0820
Plaintiff,)	
)	MATERIAL WITNESS
v.)	DEPOSITION ORDER
)	
LUIS ALBERTO RAMIREZ (1),)	
SERGIO TERRONES (2),)	
)	
Defendants.)	

Upon motion of material witnesses Juan Manuel GOMEZ-Martinez, Israel CANCINO-Garcia and Salvador Jesus ARROYO-Ramirez, by and through their counsel THOMAS G. GILMORE pursuant to Rule 30(b)(4), Federal Rules of Civil Procedure, for an order directing the taking of the oral deposition of Juan Manuel GOMEZ-Martinez, Israel CANCINO-Garcia and Salvador Jesus ARROYO-Ramirez, material witnesses, by means of videotape; and good cause for the issuance of the order having been shown; therefore,

IT IS HEREBY ORDERED that the deposition of Juan Manuel GOMEZ-Martinez, Israel CANCINO-Garcia and Salvador Jesus ARROYO-Ramirez be taken by means of videotape recordings, subject to the following conditions:

1 1. Said material witnesses shall be deposed on 8/8/07,
2 2007, at 10 AM a.m. The deposition will be held at the U.S.
3 Attorney's office, located at 880 Front Street, San Diego,
4 California.

5 2. All parties, meaning the United States and the
6 defendants, shall attend the deposition. The arresting agency shall
7 bring the material witness to the deposition and remain present
8 during the proceeding. If the defendant is in custody, he shall be
9 brought separately to the deposition and a marshal shall remain
10 present during the entire proceeding.

11 3. The United States Attorney's Office shall provide a
12 videotape operator and arrange for a court-certified interpreter to
13 be present for the material witness, if necessary.

14 The cost of the interpreter for the material witness will be
15 borne by the United States Attorney's office.

16 4. If the defendant needs an interpreter independent of the
17 material witness interpreter (if any), defense counsel will arrange
18 for a court-certified interpreter to be present. The costs of a
19 separate interpreter for the defendant shall be paid by the court.

20 5. The United States Attorney's Office shall arrange for a
21 certified court reporter to be present. The court reporter shall
22 stenographically record the testimony and serve as a notary and
23 preside at the deposition in accordance with Rule 28(a), Fed. R.
24 Civ. P. The cost of the court reporter shall be borne by the
25 United States Attorney's Office.

26 6. The deposition shall be videotape recorded, meaning a
27 magnetic tape that records sound as well as visual images. At the
28 conclusion of the deposition on the record, the witnesses, or any

1 party, may elect to have the witness review the videotaped record
2 of the deposition to check for errors or omissions and to note any
3 changes. Any errors, omissions or changes, and the reasons for
4 making them, shall be stated in writing, signed the by the
5 witness(es) and delivered to the notary in a sealed envelope and
6 filed in the same fashion as described in Paragraph 17 below,
7 unless the parties agree on the record to a different procedure.

8 7. The videotape operator shall select and supply all
9 equipment required to videotape and audiotape the deposition and
10 shall determine all matters of staging and technique, such as
11 number and placement of cameras and microphones, lighting, camera
12 angle, and background. The operator shall determine these matters
13 in a manner that accurately reproduces the appearance of the
14 witness and assures clear reproduction of both the witness'
15 testimony and the statements of counsel. The witness, or any party
16 to the action, may place upon the record any objection to the
17 videotape operator's handling of any of these matters. Such
18 objections shall be considered by the Court in ruling on the
19 admissibility of the video and/or audiotape record. All such
20 objections shall be deemed waived unless made promptly after the
21 objector knows, or has reasonable grounds to know, of the basis of
22 such objection.

23 8. The deposition shall be recorded in a fair, impartial,
24 objective manner. The videotape equipment shall be focused on the
25 witness; however, the videotape operator may from time to time
26 focus upon charts, photographs, exhibits or like material being
27 shown to the witness during the deposition.

28 9. Before examination of the witness, the Assistant United

1 States Attorney shall state on the video/audio record his/her name;
2 the date, time and place of the deposition; the name of the
3 witness(es) and the identity of the parties and the names of all
4 persons present in the deposition room. The notary shall then
5 swear the witness on the video record. Further, before the
6 beginning of the examination each counsel shall identify
7 himself/herself and his/her respective client on the record. If
8 more than one videotape is used, the notary shall repeat items (a),
9 (b) and ©) at the beginning of each new tape.

10 10. The videotape operator shall not stop the video recorder
11 after the deposition commences until it concludes, except, however,
12 that any party may request a cessation for a brief recess, which
13 request will be honored unless another party objects and states the
14 basis for said objection on the record. Each time the tape is
15 stopped or started, the operator shall announce the time on the
16 record. If the deposition requires the use of more than one tape,
17 the end of each tape and the beginning of the next shall be
18 announced orally on the video record by the operator.

19 11. Testimonial evidence objected to shall be recorded as if
20 the objection had been overruled and the court shall rule on the
21 objections at the appropriate time. The party raising the
22 objection(s) shall be responsible for having a transcript prepared
23 for the court to consider. All objections to the evidence
24 presented shall be deemed waived unless made during the deposition

25 12. The party offering the deposition into evidence at trial
26 shall provide the Court with a transcript of the portions so
27 offered.

28 13. Copies of all exhibits utilized during the videotaped

1 deposition shall be attached to the videotape record.

2 14. At the conclusion of the deposition, any objection,
3 including the basis, to release of the material witness(es) from
4 custody shall be stated on the record. If there is no objection,
5 the attorney for the material witness(es) shall immediately serve
6 all parties with a "Stipulation and Proposed Order for Release of
7 the Material Witness(es)" and submit the Order to the Clerk of
8 Court for the Judge's signature. Prior to release from custody
9 the attorney for the Government shall serve the material
10 witness(es) with a subpoena for the trial date and a travel fund
11 advance letter.

12 15. Upon request by either party, the videotape operator
13 shall provide a copy of the videotaped deposition to the requesting
14 party at the requesting party's expense. After preparing the
15 requested copies, if any, the videotape operator shall deliver the
16 original videotape to the notary along with a certificate signed by
17 the videotape operator attesting that the videotape is an accurate
18 and complete record of the recorded deposition.

19 16. The notary shall file the original videotape, along with
20 any exhibits offered during the deposition, with the Court in a
21 sealed envelope marked with the caption of the case, the name of
22 the witness and the date of the deposition. To that envelope, the
23 videotape operator shall attach a sworn statement that the notary
24 shall attach the sworn statement that the videotape is an accurate
25 and complete record of the recorded deposition and a certification
26 that the witness was duly sworn by the officer.

27 17. Unless waived by the parties, the notary must give prompt
28 notice to all parties of the filing of the video record of the

1 deposition with the Court pursuant to Fed.R.Civ.P. 30(f)(3).

2 18. If any party objects on the record to the release of the
3 material witness(es) from custody, the objecting party must request
4 in writing a hearing on the issue before the federal judge who is
5 assigned the case or to such other district judge or magistrate
6 judge as they designate. Notice of the Request for Hearing must be
7 served on all parties and filed with the Clerk of Court within
8 twenty-four (24) hours after the completion of the deposition, with
9 a courtesy copy to chambers. The Court will set a briefing
10 schedule, if appropriate, and a date and time for the objection to
11 be heard as soon as reasonably practicable. At the hearing, the
12 objecting party must establish to the Court's satisfaction an
13 appropriate legal basis for the material witness(es) to remain in
14 custody. If, after the hearing, the Court orders the release of
15 the material witness(es), the material witness(es)' attorney shall
16 immediately present the release order to the Court for signature and
17 filing. Before release of the material witness(es) from custody,
18 the Government shall serve the material witness(es) with a subpoena
19 for the trial date and a travel fund advance letter.

20 IT IS SO ORDERED.

21 DONE at San Diego, California this 24 day of July,
22 2007.

23 
24 UNITED STATES MAGISTRATE JUDGE